

ORDINANCE NO. 2016-18

AN ORDINANCE OF THE TOWN OF EATONVILLE, WASHINGTON, AMENDING CHAPTER 8.09 OF THE EATONVILLE MUNICIPAL CODE REGARDING JUNK VEHICLES

WHEREAS, the Eatonville Municipal Code contains chapters dealing with General Nuisance, Junk Vehicles, Public Noise Nuisances, and a General Penalty (these Chapters are collectively referred to herein as the "Nuisance Code"), which prohibits certain conduct within the Town and provides penalties for violations; and

WHEREAS, law enforcement and Town officers charged with enforcing the Nuisance Code have found the Nuisance Code difficult to interpret and therefore difficult to enforce; and

WHEREAS, the Eatonville Town Council, in an effort to clarify the Nuisance Code in order to better inform the public and ease enforcement efforts, finds that the public health, safety, and welfare will be served by amending the various chapters of the Eatonville Municipal Code which form the Nuisance Code; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF EATONVILLE AS FOLLOWS:

Section 1. Eatonville Municipal Code Chapter 8.09 is AMENDED to read as follows:

Chapter 8.09 JUNK VEHICLES*

Sections:

8.09.010 Purpose.

8.09.020 Definitions.

8.09.030 Exemptions.

8.09.040 Violations - Penalties.

8.09.050 Abatement procedure.

8.09.060 Liability for costs of abatement.

8.09.070 Right of Entry – Private Property.

*Prior legislation: Ord. 90-19, formerly codified in Ch. 10.20 EMC.

8.09.010 Purpose.

The purpose of the ordinance codified in this chapter is to provide for the abatement and removal of junk vehicles on private property as provided for in RCW 46.55.240, and for the assessment of monetary penalties pursuant to Chapter 1.12 EMC. Abatement is necessary to preserve and enhance the aesthetic character of the town's neighborhoods, protect property values and rights and to reduce environmental health and

safety problems associated with junk vehicles. Monetary penalties are necessary to promote compliance with the provisions set forth herein.

8.09.020 Definitions.

For the purposes of this chapter, the following definitions apply:

A. "Junk vehicle" is any vehicle, or parts of a vehicle, which meets at least three of the following criteria:

1. Is extensively damaged, such damage including, but not limited to, the following examples:

- a. Broken window or windshield;
- b. Flat tires;
- c. Missing tires, motor or transmission;
- d. Rusted exterior;
- e. Leaking oil or gasoline;

2. Is apparently inoperable, meaning that a vehicle does not appear to comply with requirements for vehicles used on public streets or highways with regard to licensing, brakes, lights, tires, safety glass or other safety equipment;

3. Is three years old or older;

4. Has an approximate fair market value equal only to the approximate value of the scrap in it;

5. Is illegally parked in the front or side yard.

B. "Enforcement officer" means the mayor, his or her designee, or a town of Eatonville law enforcement officer.

C. "Vehicle" shall include, but not be limited to, automobiles, motorcycles, trucks, buses, motorized recreational vehicles, campers, travel trailers, boat trailers, utility trailers, or other similar devices capable of moving or being moved on the public right-of-way, and shall also include parts of vehicles, but shall not include devices moved by human or animal power, or used exclusively upon stationary rails or tracks.

D. "Person" shall include natural persons of either sex, firms, partnerships, corporations and all associations of natural persons, whether acting by themselves or by a servant or employee.

E. "Private Property" means land not owned by the government or dedicated to public use.

8.09.030 Exemptions.

The provisions of this chapter shall not apply to:

A. A vehicle or part thereof that is completely enclosed within a building in a lawful manner, or otherwise parked legally on the property so as not to be visible from adjacent or nearby public property. Temporary tarp garages and carports do not satisfy this exemption;

B. A vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dismantler or licensed vehicle dealer and is fenced in accordance with the provisions of RCW 46.80.130;

C. A vehicle enclosed in an opaque auto cover specifically designed to completely shield the vehicle from view as long as the vehicle is parked in a lawful manner on private property. The cover must be in good condition and must be replaced if it is torn, weather-beaten, or acquires any other defects. Tarps and makeshift covers do not meet the requirement. This exemption will apply to only two vehicles per legal lot. Vehicles stored on vacant or undeveloped land are not exempted by this subsection;

D. An individual's personal vehicle restoration of up to two vehicles per legal lot. Vehicles stored on vacant or undeveloped land are not exempted by this subsection.

8.09.040 Nuisance declared; Violations - Penalties.

A. One or more junk vehicles which have been accumulated, dismantled, parked, placed, or stored on private property is declared a public nuisance, which is subject to the enforcement, penalty, removal, and abatement procedures in this chapter and as provided in state law.

B. It is a violation of this chapter for any person to accumulate, dismantle, park, place or store a junk vehicle on private property, in conflict with or in violation of any of the provisions of this chapter. Both the registered owner of the vehicle and the record owner of the private property upon which the vehicle is found shall be considered in violation of this chapter and subject to the enforcement and penalty provisions, except as otherwise set forth herein.

C. In addition to the above, it is a violation of this chapter to:

1. Remove or deface any sign, notice, complaint or order required by or posted in accordance with this chapter;
2. Fail to comply with any of the requirements of this chapter, including any requirement of the town's codes and state codes adopted by reference herein.

D. Penalties. Any violation of the provisions of this chapter shall be considered a civil infraction and shall subject the person committing the violation to the procedures, terms, and conditions set forth in Chapter 1.12 EMC, as well as the abatement remedies set forth herein.

8.09.050 Abatement procedure.

A. When judgment is rendered against any person finding them guilty of creating, keeping or maintaining a nuisance, as provided in this chapter, it shall be the duty of the court before whom the conviction is had, in addition to imposing the monetary penalty or penalties provided in Chapter 1.12 EMC, to order the defendant or defendants in such action to forthwith abate and remove the nuisance, and if the same is not done by the offender within such period of time as the court finds reasonable, the same shall be abated and removed under the direction of a police officer of the town, or any other officer authorized by the order of the court, and the costs thereof made a part of the judgment in the action.

B. Summary Abatement. Whenever any junk vehicle, as defined herein, causes, constitutes or reasonably appears to cause or constitute an

imminent or immediate danger to the health or safety of the public or a significant portion thereof, and the responsible person(s) cannot be contacted or refuse(s) to immediately abate the condition, the enforcement officer shall have the authority to summarily and without notice abate the same. The expenses of such abatement may become a civil debt against the owner or the responsible person(s) and shall be collectible in the same manner as any other civil debt owing to the town or as otherwise provided in this chapter.

C. Disposal. If after 45 days from the date of the lawful abatement and removal of a junk vehicle pursuant to this section the registered owner of said junk vehicle has failed to retrieve the vehicle, the town may seek to dispose of the vehicle. Notice of the town's intent to dispose of the vehicle shall be served upon the registered owner of the vehicle and a hearing shall be held in the same manner as set forth in Chapter 1.12 EMC. At the hearing the municipal court shall approve the disposal of the vehicle unless it shall find that good cause exists to refuse the town's request.

1. In the event the court grants the town's request to dispose of the vehicle, the enforcement officer shall facilitate the disposal with notice to the Washington State Patrol and the Department of Licensing that the vehicle has been wrecked. The vehicle shall only be disposed of as scrap.

8.09.060 Liability for costs of abatement.

A. Costs of abatement, removal and disposal of junk vehicles pursuant to EMC Section 8.09.050 shall be a joint and several debt assessable against the registered owner of such vehicle and the record owner of the property from which such junk vehicle is removed for disposal, except as otherwise provided in this section.

B. Costs of abatement, removal and disposal of junk vehicles shall not be assessed against the registered owner of such vehicle if the registered owner has transferred ownership prior to the service of a notice of violation, and the registered owner has complied with RCW 46.12.101.

C. The record owner of the property from which the junk vehicle is removed may appear in person at the hearing on the violation or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with the reasons for the denial. If it is determined at the hearing, by a preponderance of the evidence, that the vehicle was placed on the land without the consent of the landowner and that the landowner has not subsequently acquiesced in its presence, then the court shall not assess costs for the removal and disposal of such vehicle against the record owner of the property.

D. Costs of abatement, removal and disposal of junk vehicles pursuant to EMC Section 8.09.050 shall include any and all costs incurred in the removal, storage and disposal of said junk vehicle(s).

8.09.070 Right of Entry – Private Property.

When the enforcement officer has probable cause to believe that a nuisance created by a junk vehicle exists on private property in violation of

this chapter, he or she may request permission to enter the premises to inspect for evidence thereof if the property owner is present. If permissive entry cannot be obtained, the enforcement officer or prosecuting attorney may apply to a court of competent jurisdiction for a warrant to enter the property, notwithstanding the inability to locate the property owner.

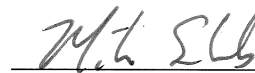
Section 2. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. This ordinance shall take effect after publication of a summary, consisting of the title, pursuant to RCW 35.27.300.

1ST READING: 08/22/2016

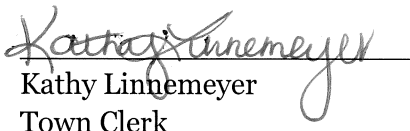
2ND READING: 09/12/2016

PASSED by the Town Council of the Town of Eatonville and attested by the Clerk in authentication of such passage this 19th day of September, 2016.



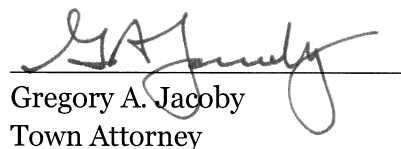
Mike Schaub
Mayor

ATTEST:



Kathy Linnemeyer
Town Clerk

APPROVED AS TO FORM:



Gregory A. Jacoby
Town Attorney